

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

STATE OF OREGON,
PLAINTIFF,

-VS-

KEVIN RENE OLAND,
DEFENDANT

CASE NO. 10-95-08151

REQUEST FOR OMNIBUS HEARING AND
MOTION TO EXCLUDE IDENTIFICATION
EVIDENCE

COMES NOW the Defendant and hereby moves the Court for an Omnibus Hearing to consider the admissibility at trial of identifications of the Defendant by all State witnesses. The Defendant further moves pursuant to the Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 11 of the Oregon Constitution for an Order excluding as evidence in this case the testimony of the State's witnesses as to pretrial identifications of the Defendant on the grounds that any such identifications were tainted by suggestive or unfair procedures, and prohibiting any in-court identification by the witnesses on the grounds that such identification testimony would be tainted by the prior suggestive or unfair identification procedures.

This motion is made in good faith and not for the purpose of delay. It is

supported by the authorities cited below, and such other grounds and authorities as may be developed at hearing on this motion.

MOVED this _____ day of March, 1996.

TERRI WOOD OSB 88332
Attorney for Defendant

AUTHORITIES:

Amendments V & XIV, U.S. Constitution

Article I, Section 11, Oregon Constitution

ORS 135.037(2)(b)

United States v. Wade, 388 US 218 (1967)

Stovall v. Denno, 388 US 293 (1967)

Manson v. Brathwaite, 432 US 98 (1977)

Neil v. Biggers, 409 US 188, 93 SCt 375 (1972)

United States v. Bagley, 772 F2d 482, 494 (9th Cir. 1985)(a joint confrontation is a disapproved identification procedure)

State v. Classen, 285 Or 221 (1978)

State v. Ponce, 54 Or App 581 (1981)(show-up unduly suggestive when robbery victim told by police that suspect was found in possession of property stolen from victim)

State v. Watkins, 47 OrApp 777 (1980)